

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

1	IN THE MATTER OF)	
2	A. H. POWERS, INC.,)	
3	Appellant,)	PCHB No. 508
4	vs.)	FINAL FINDINGS OF FACT,
5	PUGET SOUND AIR POLLUTION)	CONCLUSIONS OF LAW
6	CONTROL AGENCY,)	AND ORDER
	Respondent.)	

8 THIS MATTER being an appeal of a \$100.00 civil penalty for an
9 alleged open-burning violation of respondent's Regulation I; having
10 come on regularly for hearing before the Pollution Control Hearings
11 Board on the 3rd day of June, 1974, at Seattle, Washington; and
12 appellant, A. H. Powers, Inc., not appearing and respondent, Puget
13 Sound Air Pollution Control Agency, appearing through its attorney,
14 Keith D. McGoffin; and Board members present at the hearing being
15 Walt Woodward (presiding) and Mary Ellen McCaffree; and the Board having
16 considered the sworn testimony, exhibits, records and files herein
17 and having entered on the 4th day of June, 1974, its proposed Findings
18 of Fact, Conclusions of Law and Order; and the Board having served

1 said proposed Findings, Conclusions and Order upon all parties herein
2 by certified mail, return receipt requested and twenty days having
3 elapsed from said service; and

4 The Board having received no exceptions to said proposed
5 Findings, Conclusions and Order and the appellant having paid the civil
6 penalty; and the Board being fully advised in the premises; now therefore,

7 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
8 Findings of Fact, Conclusions of Law and Order, dated the 4th day of
9 June, 1974, and incorporated by this reference herein and attached
10 hereto as Exhibit A, are adopted and hereby entered as the Board's
11 Final Findings of Fact, Conclusions of Law and Order herein.

12 DONE at Lacey, Washington, this 2nd day of July, 1974.

13 POLLUTION CONTROL HEARINGS BOARD

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15 Walt Woodward
16 WALT WOODWARD, Chairman

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26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW
AND ORDER

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POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

1	IN THE MATTER OF)	
	A. H. POWERS, INC.,)	
2)	
	Appellant,)	PCHB No. 508
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	vs.)	FINDINGS OF FACT,
4)	CONCLUSIONS OF LAW
	PUGET SOUND AIR POLLUTION)	AND ORDER
5	CONTROL AGENCY,)	
)	
6	Respondent.)	

8 This matter, the appeal of a \$100.00 civil penalty for an alleged
9 open-burning violation of respondent's Regulation I, came before the
10 Pollution Control Hearings Board (Walt Woodward, presiding officer,
11 and Mary Ellen McCaffree) in the Washington Commerce Building,
12 Seattle, on June 3, 1974.

13 Respondent appeared through Keith D. McGoffin. Sherri Darkow,
14 Bremerton court reporter, recorded the proceedings. Appellant did
15 not appear, although the proceedings were delayed for one-half hour
16 after the time of 9:30 a.m., set by this Board in notices of hearing
17 mailed to all parties on February 21, 1974. Mr. McGoffin was instructed
18 by the Board to sustain respondent's position.

EXHIBIT A

1 A witness was sworn and testified. Exhibits were admitted.

2 From testimony heard and exhibits examined, the Pollution Control
3 Hearings Board makes these

4 FINDINGS OF FACT

5 I.

6 From a metal drum on a barge operated by appellant and anchored
7 in Juanita Bay, Lake Washington, King County, a fire of petroleum-
8 product-soaked rags and filters were ignited and burned, emitting a
9 tall column of black smoke, on December 21, 1973.

10 II.

11 The fire was observed by and formally reported to respondent
12 by a member of the staff of the King County Department of Public
13 Safety. In connection therewith, respondent served on appellant
14 Notice of Violation No. 8987, citing Section 9.02 of respondent's
15 Regulation I, and Notice of Civil Penalty No. 1348, in the sum of
16 \$100.00, which is the subject of this appeal.

17 III.

18 Section 9.02 of respondent's Regulation I makes it unlawful to
19 cause or allow an outdoor fire containing petroleum products. The
20 same section states that it is prima facie evidence that the person
21 who owns or controls property on which an outdoor fire occurs has
22 caused or allowed said fire. Section 3.29 authorizes respondent to
23 levy a civil penalty of not more than \$250.00 for any violation of
24 Regulation I.

25 IV.

26 Any Conclusion of Law hereafter stated which is deemed to be a

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

1 Finding of Fact is adopted herewith as same.

2 From these Findings, the Pollution Control Hearings Board
3 comes to these

4 CONCLUSIONS OF LAW

5 I.

6 Appellant was in violation of respondent's Regulation I as
7 stated in Notice of Violation No. 8987.

8 II.

9 The penalty imposed in Notice of Civil Penalty No. 1348 is
10 reasonable.

11 III.

12 Any Finding of Fact herein which is deemed to be a Conclusion
13 of Law is adopted herewith as same.

14 Therefore, the Pollution Control Hearings Board makes this

15 ORDER

16 The appeal is denied and the penalty of \$100.00 is affirmed.

17 DONE at Lacey, Washington, this 4th day of June, 1974.

18 POLLUTION CONTROL HEARINGS BOARD

19
20 Walt Woodward
21 WALT WOODWARD, Chairman

22
23 Mary Ellen McCaffree
24 MARY ELLEN McCAFFREE, Member

26 FINDINGS OF FACT,
27 CONCLUSIONS OF LAW
AND ORDER